

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF OKLAHOMA

TED BAKER, )  
                  )  
Plaintiff,     )  
                  )  
vs.             )     Cause No. CIV-13-360-JHP  
                  )  
BNSF RAILWAY COMPANY, )  
                  )  
Defendant.     )

**JOINT STATUS REPORT**

Pursuant to Federal Rules of Civil Procedure 26(f) a meeting was held on October 2, 2013 at 9:00 a.m. via telephone. Plaintiff appeared by counsel Patrick O'Brien and Defendant BNSF Railway Company appearing by counsel Lance Cook.

1.     Summary of Claims:

Plaintiff claims he sustained injury to his low back due to the collapse of a locomotive seat on the engine he was operating on January 29, 2012. Plaintiff alleges the collapse of the seat violated the Locomotive Inspection Act and imposes strict liability on Defendant BNSF Railway Company.

2.     Summary of Defenses:

The Defendant BNSF Railway Company ("BNSF") denies that Plaintiff has sustained injuries as a result of the incident alleged in Plaintiff's Complaint. Further, if Plaintiff sustained injuries as alleged in his Complaint, they are not due to the negligence of the Defendant BNSF. Further, Plaintiff's claims are subject to the affirmative defenses contained in its Answer.

3     Stipulations:

A.     Jurisdiction Admitted:      Yes      No  
Explain:

B. Venue appropriate: X Yes \_\_\_\_\_ No

Explain: Defendant believes that venue may be more appropriate in another district under the doctrine of forum non conveniens.

C. Facts: Plaintiff was employed by Defendant and is covered by the FELA.

D. Law: Plaintiff's claims are governed by the Federal Employers' Liability Act.

4. Discovery Plan:

A. Discovery is needed on the following subjects:

The facts and circumstances surrounding the incident alleged in Plaintiffs' Complaint; written discovery, expert witness (liability, medical and damages).

B. Discovery should be completed by May 1, 2014.

C. Proposed number of interrogatories

1. Plaintiff: Thirty (30) to Defendant.

2. Defendant: Thirty (30) to Plaintiff.

3. Responses due 30 days after service

D. Proposed number of requests for admissions

1. Plaintiff: Ten (10) to Defendant.

2. Defendants Ten (10) to Plaintiff.

3. Responses due 30 days after service

E. Proposed number of fact and expert depositions

1. Plaintiff: Ten (10)

2. Defendants: Ten (10)

3. Each deposition limited to a maximum of 7 hours unless extended by agreement of parties.

5. All Parties consent to trial before Magistrate Judge?

\_\_\_\_\_ Yes X No

## 6. Settlement Plan:

Settlement Conference requested after May 1, 2014.

Other ADR (explain) \_\_\_\_\_

## 7. Estimated Litigation Costs:

## A. Plaintiff:

(1) Through discovery cutoff	\$20,000.00
(2) Discovery cutoff through trial	\$20,000.00
(3) Appeal	\$10,000.00
Total	\$50,000.00

## B. Defendant BNSF

(1) Through discovery cutoff	\$60,000.00
(2) Discovery cutoff through trial	\$25,000.00
(3) Appeal	\$15,000.00
Total	\$100,000.00

<b>GRAND TOTAL (ALL PARTIES)</b>	<u>\$150,000.00</u>
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C. Actual amount in controversy (may be expressed in dollar range)	<u>\$0 - \$500,000.00</u>
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Read and Approved by:

/s/ Patrick S. O'Brien  
Attorney for Plaintiff

/s/ Lance C. Cook  
Attorney for Defendant  
BNSF Railway Company